MASSACHUSETTS STATE LABOR COUNCIL

1977 CONVENTION YEARBOOK

Harvard Community Health Plan

"THE AMERICAN LABOR MOVEMENT HAS, FROM THE BEGINNING, RECOGNIZED THE ADVANTAGES OF PREPAID GROUP PRACTICE AND HAS ACTIVELY SPONSORED SOME PLANS AND SUPPORTED MANY OTHERS WE ARE PLEASED WITH THE PROGRESS AND ACCEPTANCE OF THESE PLANS AMONG OUR MEMBERSHIP."

GEORGE MEANY
PRESIDENT AFL—CIO

The Harvard Community Health Plan (HCHP) is a prepaid medical plan or health maintenance organization (HMO) delivering care to over 68,000 members in the metropolitan Boston area. HCHP is offered as an alternative to traditional health insurance and provides a broad range of medical services that include personal physician care and hospital care. Membership is available through more than 1,800 Boston area employers unions, the Department of Public Welfare, and on a non-group (individual) basis.

Administrative Offices
80 Brighton Avenue
Allston, Massachusetts 02134
Telephone 787-7800

Kenmore Center
690 Beacon Street
Boston, Massachusetts 02215

Cambridge Center
1611 Cambridge Street
Cambridge, Massachusetts 02138

DEDICATION TO

President Joseph A. Sullivan

JOSEPH A. SULLIVAN

Born in Roxbury section of Boston June 3, 1908. Graduated from St. John's Grammar School in 1923 and from Boston College High School in 1927. Attended Boston College to 1931.

In 1937, he joined with a group of First National Store employees in the city of Quincy to form Local 294 of the Meatcutters Union.

In the following six years, he was elected Trustee, Chairman of Trustees and President. Then, in February of 1943, he was elected to the full-time position of Secretary-Treasurer of the Local. He held this position until late 1954, when seven locals of the Meatcutters Union in Eastern Massachusetts merged into one organization. He was elected the first President and Business Manager of the new District Union Local 2, which has been located in Natick, Mass., since 1954. He has been re-elected to that position in every local union election since.

In 1945, he was elected as the first Secretary of the New England Council of Meatcutters Unions and has held the position since that date.

When the AFL and CIO merged in Norfolk County in 1959 to form the Norfolk County Massachusetts Labor Council, he was elected the first president of that council and has held the position since.

In 1945, he was elected as a Vice President of the former Massachusetts Federation of Labor, AFL and held the post for ten years, until he declined re-election when he was elected president and business manager of merged Meatcutters Local 2.

He was elected a Vice President of the Massachusetts State Labor Council, AFL-CIO, in 1964 and in 1968 was elected one of the two Executive Vice Presidents of that Council.

Upon the death of the late President Salvatore Camelio, the Executive Board of the Council elected him to succeed Camelio and he assumed the presidency of the State Labor Council on April 9, 1972.

Besides his union activities, he has served his state and his community with the same diligence.

In 1948, he was appointed a member of the Commission set up to study the Workmen's Compensation law by the then Governor Bradford.

He was appointed by Governor Sargent as a member of the Governor's Advisory Council on Vocational-Technical Education and participated in setting up the first plan for this Council before resigning.

In 1970, he served on the Commission set up to investigate meat slaughtering and to present legislation to the General Court. He was successful in bringing into this law an Advisory Council which has as two of its members representatives of the Massachusetts State Labor Council, AFL-CIO.

He served for many years as a member of the Committee on Racial Imbalance of the Department of Education, under two Commissioners of Education, which brought about changes beneficial to the underprivileged children of Massachusetts.

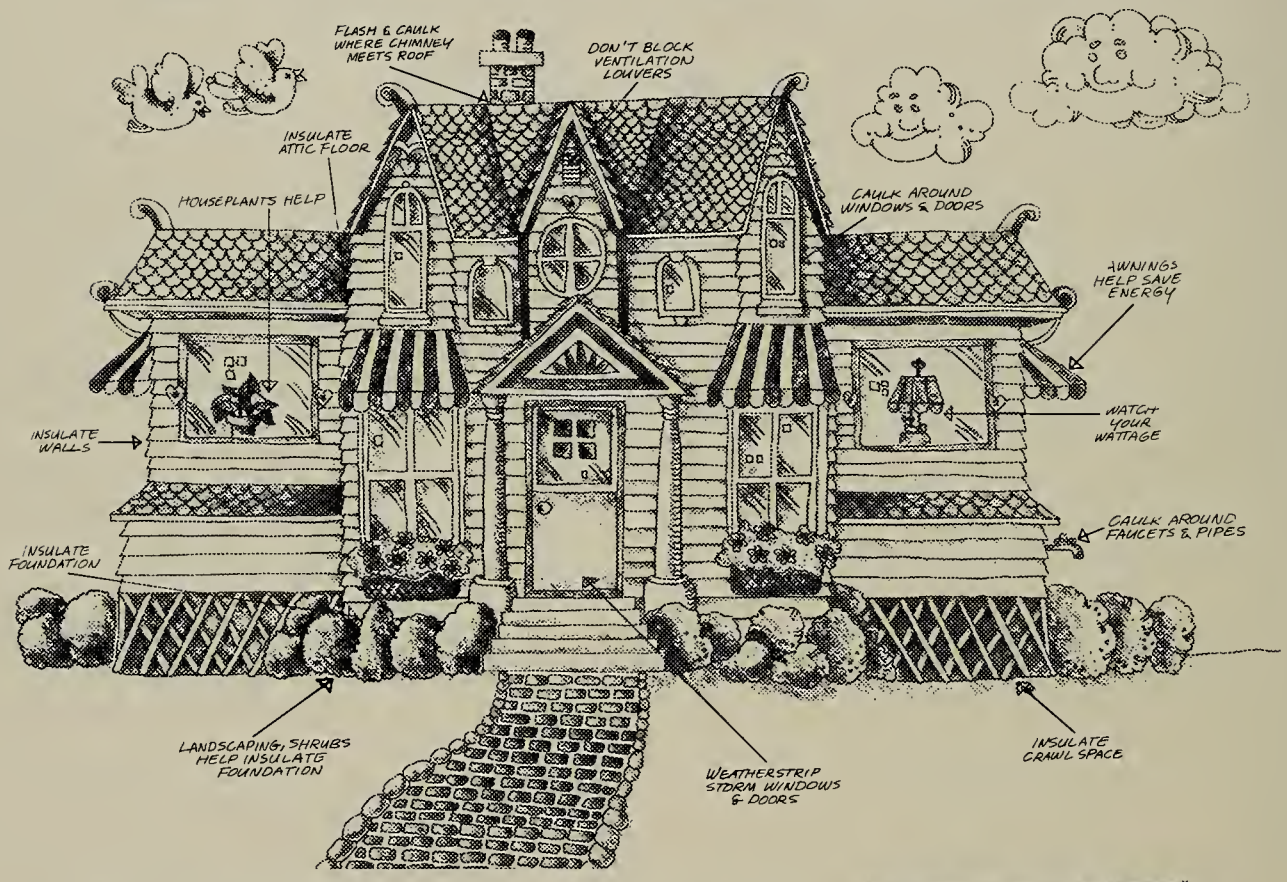
In his home city of Quincy, he served on the Salary Survey Committee and the Professional Conduct Committee of the Quincy schools. He was appointed to this position by the School Committee.

He is a member of the Board of Directors of the Massachusetts Bay United Fund and has assisted in setting up the South Shore Committee on Alcoholism by serving as Chairman in its first year.

He lives at 44 Lurton Street, Quincy, Massachusetts, with his wife, the former Charlotte Glynn. They were married on June 13, 1937.

1977

Conservation tips. On the house.



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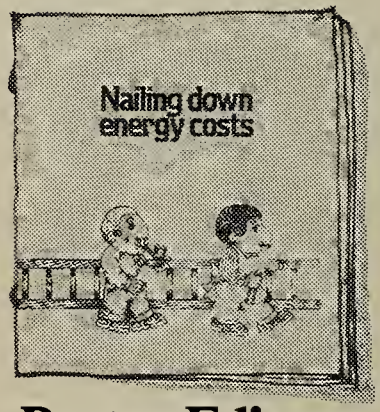

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Massachusetts State Labor Council

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LABOR DAY MESSAGE

By Joseph A. Sullivan, President
Massachusetts State Labor Council, AFL-CIO

This Labor Day marks the beginning of the ninth month since a new Democratic Administration moved into the White House in Washington with the promise that the economic slump which had already lasted more than seven years would be ended — and that the corruption, the lack of ethics, and other evils in high places, as well as abuses of power and disregard for the laws by certain business interests or organized groups, which often have detrimental effects for the entire nation, would be corrected or eliminated.

As we celebrate this day, a day set aside to recall the many great achievements of organized labor and to pay tribute to all working men and women of America, we cannot say that the new Administration has not made any effort to get the country moving in the right direction. But we have to be realistic. We have to say that the pace at which progress has been made toward our objectives in the past eight months has been rather slow.

There are still too many people looking for jobs. There are still too many people who cannot afford proper health care. There are still too many deserving youngsters who are being deprived of the opportunity for higher education. And there are certainly too many people who fear for their personal safety on the streets of our cities and towns.

We realize, of course, that no leader, no matter how great, has ever mastered the trick of waving a magic wand to solve the world's problems overnight. And we are fully aware that economic and social problems are not confined within the boundaries of the United States. In fact, many of the problems Americans face have their source in sore spots and controversies scattered throughout the world. However, Administrative and Congressional action on many of labor's basic objectives is long overdue and we did expect more progress in the past eight months.

So on this Labor Day of 1977, I say to all working men and women of this state and of the nation, keep in contact with the people you have helped elect to represent you. Keep telling them that what you want and need for yourselves and your families are not fantasies but things that can be achieved under serious and honest leadership.

What happens to the working people of America should be the chief concern of elected officials at all levels.

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LABOR DAY STATEMENT

BY SECRETARY OF LABOR

RAY MARSHALL

Labor Day is a fitting annual tribute to working men and women for their many valuable contributions in our society. Working people and the organizations representing them have long been important forces behind social and economic progress benefiting all citizens.

In 1977, this important national holiday occurs as significant steps are being taken to advance and protect the wellbeing of wage-earners through historic new legislation and programs.

While employment of American workers has reached an all-time peak and unemployment shows signs of declining, this Administration has assigned the highest priority to putting millions of jobless people back to work and speeding recovery from economic recession.

President Carter's economic recovery program is designed to stimulate the creation of jobs in the private sector, where most employment opportunities exist and to provide temporary, but constructive public service jobs for workers unable to find work in the private sector. These public service jobs will benefit communities, and provide skills and work experience needed for permanent, private-sector jobs.

Special job and training programs have been launched or expanded to assist youths, young and disabled veterans, minority-group members and other groups traditionally suffering high unemployment rates, even under the best of economic conditions.

Comprehensive youth employment legislation has been enacted, launching several innovative programs to bring down high unemployment among teenagers and young adults by putting them to work in public forests and parks, conservation projects and other socially useful tasks.

Unemployed Vietnam-era veterans are being recruited actively for jobs in private industry under the Help Through Industrial Retraining and Employment (HIRE) program, which was part of the economic stimulus package signed by President Carter May 13, 1977. Disabled veterans have been recruited to help the public employment service to identify other disabled veterans and assist them in obtaining available jobs and training.

President Carter has proposed major reforms in the nation's welfare system that would replace the present patchwork of federal welfare programs with a simplified and more effective attack on poverty. Increased work opportunities will be provided for people who need and want to work, and more equitable cash assistance will be available for needy men and women unable to work because of disability, age or family responsibilities.

A substantial federal minimum wage increase is being sought for the nation's lowest-paid workers, whose earnings have been eroded by inflation. Future automatic adjustments in the minimum have been proposed to help workers keep step with rising living costs.

A major redirection of job safety and health act enforcement has been initiated to focus on the most serious hazards facing workers and put special emphasis on protecting their health against the growing number of potentially toxic industrial substances.

Enforcement of the Employee Retirement Income Security Act has been stepped up to protect workers better from misuse and loss of their hard-earned pension and welfare funds.

Equal employment opportunity has also been given the priority it deserves as we strive to expand job prospects for minority-group members, women, older workers, the handicapped and military veterans. Laws banning employment discrimination are being enforced vigorously to assure that qualified workers' talents and productive capacities are not wasted simply because of race, sex, age, mental or physical disabilities or other arbitrary considerations.

Needed reforms have been recommended to improve the mechanism which implements our national labor relations policy. These reforms would strengthen the legal guarantees that workers have to organize and bargain collectively through representatives of their own choosing or, if they desire, to refrain from doing so. Today, these rights are often delayed or denied because of imperfections in the legal process.

The success of these efforts to improve the wages, working conditions and employment opportunities of American workers will depend heavily on cooperation and support among all groups who share a stake in their well-being—labor, management, the public and government at every level.

While Labor Day 1977 finds most of our citizens enjoying the best living and working conditions in the world, others continue to endure hardships.

Our challenge is to match their desire for the dignity and pride of meaningful work with constructive tasks that need to be performed in our society and to assure that all men and women have opportunities to exert the measure of their potential in productive jobs.

As we pause on Labor Day to recognize the many contributions of wage-earners to our economy and the quality of our American way of life, let us resolve to seek continued progress benefiting them and, ultimately, all citizens.

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LABOR DAY MESSAGE

By James P. Loughlin, Secretary-Treasurer

Massachusetts State Labor Council, AFL-CIO

On this Labor Day, there is no doubt that many people, particularly young people, are beginning to wonder what the fuss is all about. They are told that this day has been set aside to celebrate the great achievements of the working men and women of America — to pay tribute to that segment of the American people which has contributed the most to making this country the greatest in the world and to establishing the highest living and working standards in history. These people who are beginning to wonder are either older workers who have lost their jobs or younger people who have been unable to find work since they left school.

Let me say to these people that they must not lose hope. That they should participate fully in the celebrations of this special day.

Let me remind them that there have been many instances in the past similar to the hard times American workers are experiencing at this time. The record, however, will show that the fighting spirit of American workers has always prevailed in the toughest of circumstances and that they have always succeeded in protecting their freedom, their rights and the living and working standards they fought hard to achieve.

On this Labor Day, 1977, I believe that we can look forward to the end of the man-made economic slump that has plagued this country for more than eight years. And I firmly believe that not only America but the entire world will benefit from the action already taken by the Administration and the Congress to change the trend.

American workers may have suffered setbacks and exploitation in the past, but they never lost sight of their objectives. That is what we want the young people of America to remember on this day.

America will always be the best model for developing nations to follow in planning for the future. And so, on this Labor Day, we say to all of young America, don't lose faith. American working men and women will continue to make it possible for this country to guide the rest of the world and to help people everywhere to enjoy the greater benefits of an advanced civilization.

LEGISLATIVE REPORT

By WILLIAM A. CASHMAN

The Massachusetts Senate operates with a set of rules which protects senators against public awareness of absenteeism, and which permits unreasonable delay in voting on controversial issues. One of the most abused rules; and I believe an unnecessary one, provides for the "pairing" of senators votes on roll-calls.

Under this procedure an absent senator is recorded as having supported or opposed a particular bill. A senator who is present in the chamber is "paired" with the absent lawmaker, one vote canceling out the other and the "paired" votes do not affect the outcome of the roll-call.

This procedure is peculiar to the Senate, no similar rule being used in the House, where all representative, yea or nay, on an electric roll-call machine.

The process allows the senator to be absent from the Senate although the official Senate Journal will indicate that they took a position for or against a bill although the paired senator never heard one word of the debate on that particular bill.

Supposedly senators never are paired without their knowledge and consent, but it is common knowledge that at least a few senators regularly and automatically are paired without any communication to ascertain their position.

Since the paired votes do not affect the outcome of a roll-call, objections rarely, if ever, are voiced.

Perhaps the most serious problem with respect to the Senate rules is the frequency with which motions to table are offered.

While a simple majority vote is all that is needed, technically to remove a given bill from the table, Senate tradition dictates that the bill will not be considered again until the senator who tabled the bill offers a motion to release it.

There are now 42 bills "laid on the table" in the Senate, ranging from the treatment of adolescent alcoholics to bills on taxation and political conventions.

The chairman of one committee tabled two bills which had received "ought not to pass" recommendations from his own Committee!

Senate Republicans, a very weak minority in the upper chamber, have tabled half of the bills currently on the table.

This rule which obviously has its proper application in parliamentary procedure for any political body, is clearly being used to stall action on controversial issues.

Some bills have been on the table since mid-March.

A typical bill is one which Senator LoPresti tabled on March 14. This bill recommends that motorists purchase annually a $5.00 fee for a windshield sticker which would allow them to use the Sumner and Callahan tunnels without paying tolls.

This bill was rejected by the Committee on Transportation, Senator LoPresti being aware that the committee recommendation would be upheld if the bill were to be voted on at that time.

So three months later the bill is still before the Senate.

Tabling is not the only delaying tactic available to senators. They can, and will quite often, offer motions to postpone. For example, the controversial bill dealing with the use of Laetrile for cancer was before the Senate on May 24, and Senator Roger Bernashe postponed action until June 28th.

It is my thought that there will be little or no change in these rules. However, if the public raises no outcry or demands changes to expedite the work of the Senate or House, the abuses will continue.

Senator Edward M. Kennedy

EDWARD M. KENNEDY
MASSACHUSETTS

United States Senate
WASHINGTON, D.C. 20510

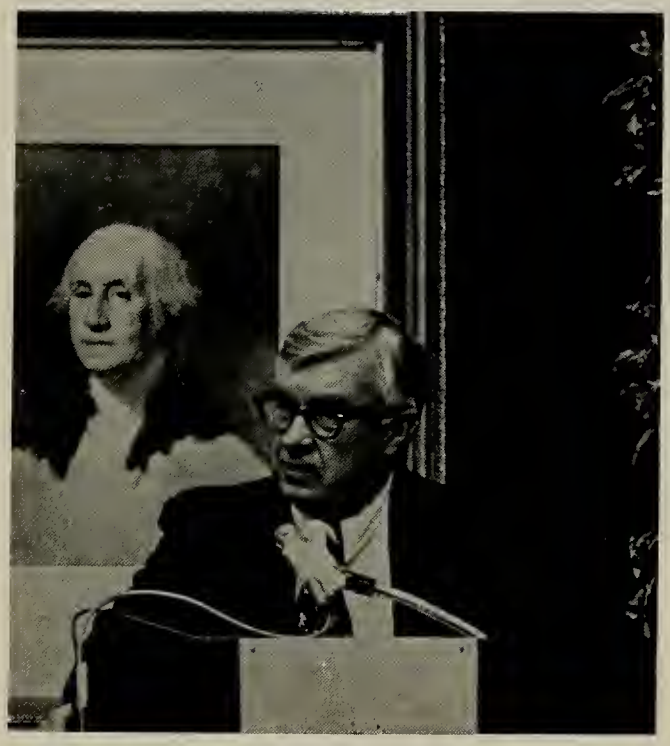
I am pleased to continue to lend my support to the Council's scholarship program and would like to convey my best wishes to the many outstanding young students who will be awarded scholarships this year.

With best wishes,

Sincerely,

Edward M. Kennedy

THE HARVARD COMMUNITY HEALTH PLAN



Richard M. Shoemaker, Assistant Director, Social Security Department, AFL-CIO, commented in favor of HMOs at Boston conference.

Health Maintenance Organizations:
An Employee's Health Care Alternative

An important benefit offered to workers for over 40 years is health insurance. Initially, this was in the form of hospitalization insurance. Expansion of the insurance benefit was due to the efforts of organized labor. Unions were also partly responsible for the development of Health Maintenance Organizations (HMOs).

HMOs, unlike regular health insurance companies, provide health care for members and their families. Instead of charging a fee for each service, HMOs collect a premium in advance from subscribers (or their employers). The premium pays for comprehensive health care by the HMOs' medical team.

The largest HMO is the Kaiser Foundation Health Plan (usually referred to as Kaiser-Permanente). It began in 1933, when a small group of doctors was retained to care for workers on a construction project in the Mojave Desert. The plan was gradually expanded to cover Kaiser employees in otner locations, then opened to the public after World War II. The Kaiser Foundation Health Plan now serves some 2.7 million members in California, Colorado, Hawaii, Ohio, Oregon and Washington.

Greater Boston's Federally Qualified HMO:
The Harvard Community Health Plan

The Harvard Community Health Plan (HCHP), founded in 1969 with the assistance of the Harvard Medical School, is the only HMO in Greater Boston. HCHP currently has 68,000 members enrolled through 1800 employers, the Department of Public Welfare, a Medicare program and on a non-group basis.

Laboratory and x-ray facilities are conveniently located at Harvard Plan Health Centers.

The Harvard Plan recently received federal certification as a qualified Health Maintenance Organization. This means the Harvard Plan meets rigid standards mandated by Congress in the 1973 Health Maintenance Organization Act. Among the requirements of the Act are fiscal soundness, periodic open enrollments, established grievance procedures — as well as the provision of basic and supplemental health services such as preventive care, physician care, hospital services and treatment for alcohol and drug abuse. Like many HMOs, the Harvard Plan offers additional services beyond those required, such as vision care and extended mental health benefits.

The Harvard Plan conveniently organizes these and other health services (such as specialty care and laboratory and x-ray facilities) at HCHP's Cambridge Center, 1611 Cambridge Street, and Kenmore Center, 690 Beacon Street, Boston. In addition the Harvard Plan operates the Mission Hill Center — an out-reach center at 1575 Tremont Street, Roxbury.

Continued

National AFL-CIO Endorses HMOs

"Historically the AFL-CIO has vigorously supported HMOs as the least costly and most efficient way for members to receive medical care," said Richard M. Shoemaker, Assistant Director, Social Security Department, AFL-CIO. His statement was made at a conference on HMOs recently held in Boston. Shoemaker further explained that HMOs are consumer oriented. HMOs have a grievance procedure not found in the traditional health care setting and members participate on consumer boards, such as the Harvard Plan's Consumer Advisory Council. In addition, the worker, as an HMO member, has fewer out of pocket expenses because services, including regular check ups are prepaid. Shoemaker added that the HMO premium is often lower than the health insurance alternative.

Well check-ups are a covered benefit at the Harvard Plan. You only pay $1 when you visit the Center.

Current statistics on HMOs have found them to be cost-effective by significantly reducing inpatient care by as much as 50% over traditional health delivery models. At the Harvard Plan, hospital days per 1000 members average 350 while Blue Cross/Blue Shield number over 800.

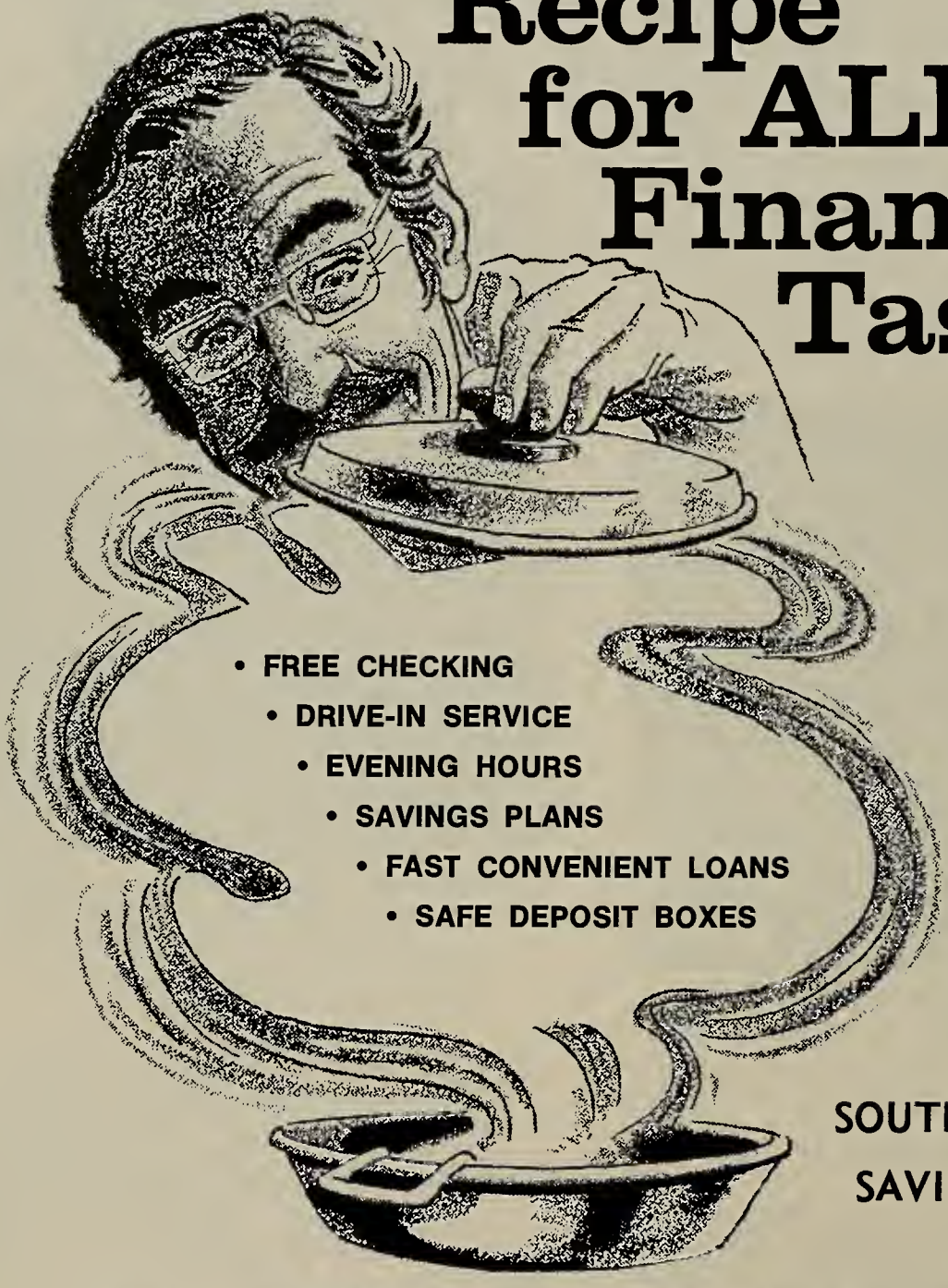
Considering the HMO Option

Total health care, lower costs, and active concern for consumer satisfaction are important points for the employee to consider when thinking about the HMO alternative.

(For more information about HMOs contact the Harvard Community Health Plan 787-7810.)

HMOs provide total health care for you and your family.

Recipe for ALL Financial Tastes



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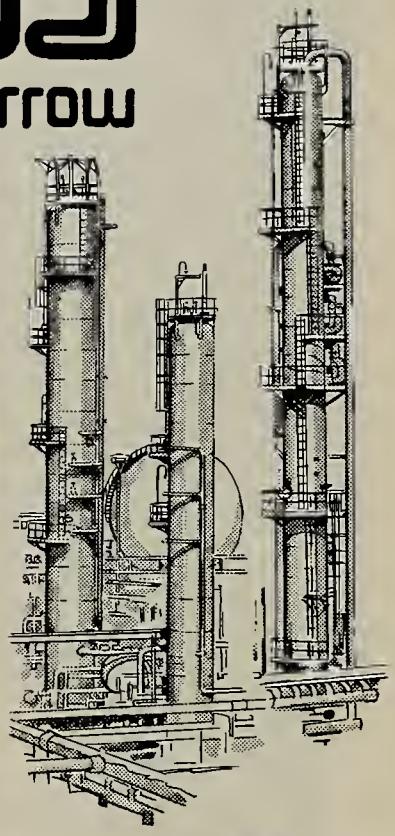
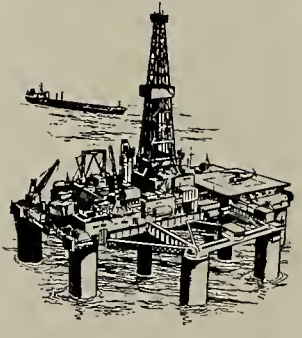
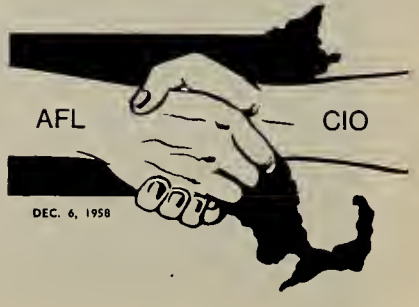
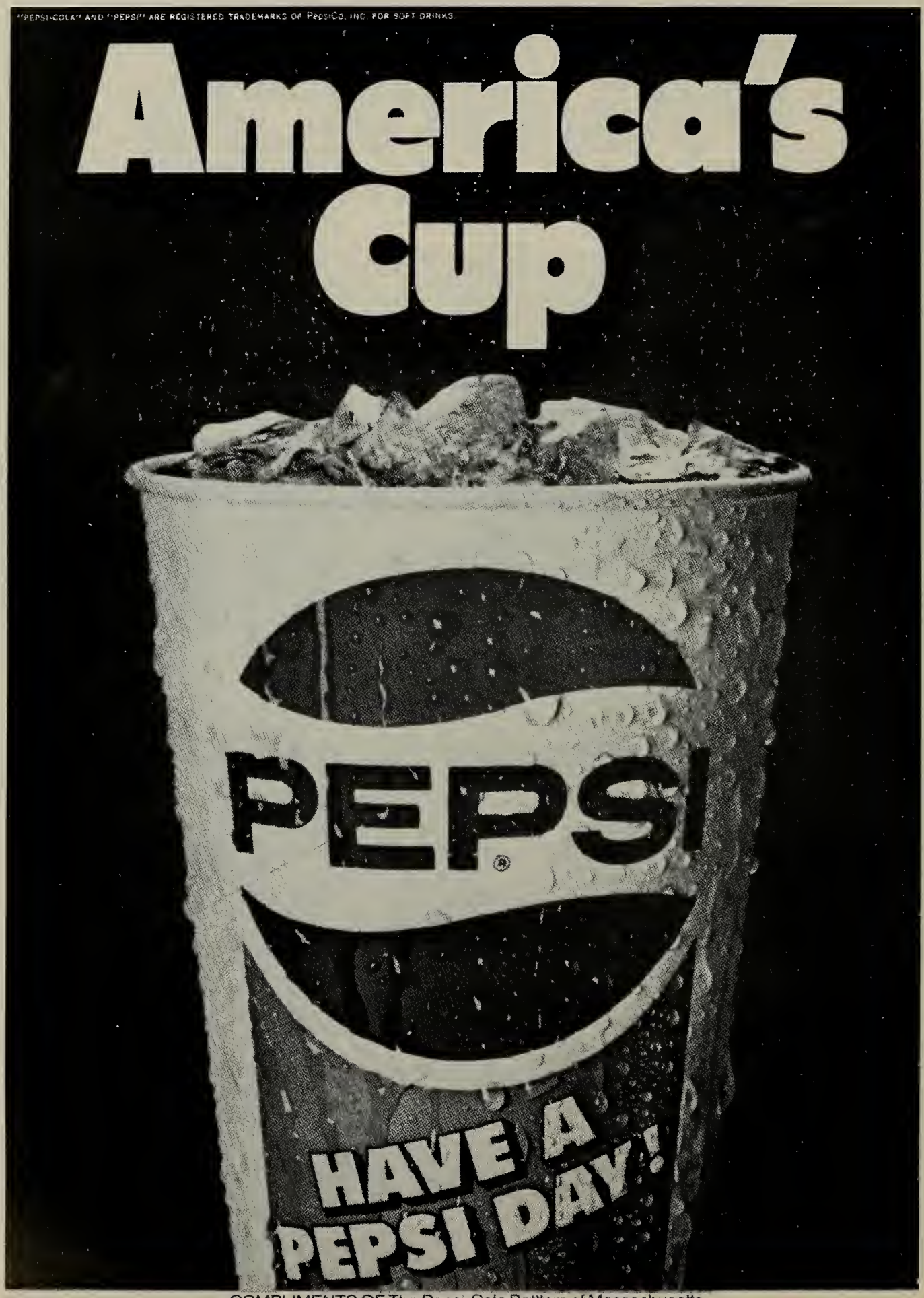




TOMORROW

DISCOVERED





LABOR DAY WEEKEND

1977

Following is the text of the 1977 Labor Day taped broadcast of AFL-CIO President

George Meany

Not so many years ago, Labor Day in America was celebrated with big parades of trade unionists marching behind their union's banner — a public demonstration of workers united, at a time when employers were seeking to destroy workers' organizations.

Today, Labor Day is a somewhat quieter celebration. There are still picnics, to be sure, but Labor Day has become more of a family day. It is a leisurely day when most workers rest, content with the knowledge that the labor movement has become accepted as an institution in American society.

The 14 million members of the AFL-CIO unions know that their employers have recognized their legal and human right to form their own union — a free and democratic union.

For the most part, their employers treat them as equals and meet over the collective bargaining table to resolve mutual problems. They have a voice in the conditions under which they will work — a voice that is heard and respected.

The contracts between the unions representing these workers and their employers set forth the agreed upon conditions of work, the rights of both parties and protections for each worker against arbitrary and unilateral actions by the employer.

It is a good system. It is democracy in action, every day of the week.

Today's union members, however, remember when things didn't work that way. Employers used every tactic — spies, goons, billyclubs, injunctions and fear — to discourage them from forming unions.

And it is because we remember so well, that the AFL-CIO and its members are so disturbed at the tactics of those employers who never accepted their employees as people with rights and who seek to prevent their workers from forming their own unions. The number and nature of illegal employer tactics to deny workers their legal and human rights is growing at an alarming rate. The system of justice established to protect worker rights is hopelessly clogged, thus delaying justice endlessly and needlessly.

Union members also recognize that many employers are using today's high unemployment rates to frighten workers interested in unionization. Union members know what their job means to them and their families, and they share the apprehension other workers have of losing their jobs.

Union-busting and high unemployment have always gone hand-in-hand. Businesses that are bent on the highest possible profits no matter what the cost in human terms always seek to keep wages as low as possible.

Of course, unemployment is more than a tool for union busters. It is social and economic dynamite. Joblessness breeds social problems — poverty, crime, alcoholism, drug abuse, slums, poor schools. It robs workers of the self-respect that comes from productive labor.

Some business leaders see high unemployment as an incentive for workers to produce more and expect less. They believe that nothing will frighten a worker more than knowing that there is a long line of unemployed workers outside the company's hiring office just begging for work. To these people, it is "good business" to keep unemployment high.

Continued

But high unemployment also destroys America's economy. Because this is a compassionate nation, unemployed workers receive subsistence payments, through unemployment insurance or welfare to help them and their families keep going until the breadwinner can find a job. But jobless workers on unemployment insurance or welfare aren't producing any goods or services for the money they receive and that is basically inflationary.

This economy depends on mass purchasing power, on millions and millions of workers being able to buy the goods they produce. Consumer spending encourages industry to produce more goods; it provides companies with the incentive and the money to modernize plants and produce goods more efficiently.

At present, true unemployment continues to hover around 10 percent, when one counts those workers who are too discouraged to look for work and those forced to work part-time even though they want and need full-time jobs.

American industry is only producing at 84 percent of capacity. Sixteen percent of the plants and machinery are sitting idle; not producing goods and services for the economy. That too is inflationary.

The whole history of humanity is that wealth is produced by work – by people working and producing something, doing something with their hands and minds.

There are a number of different ideas about how to achieve full employment and to bring the economy to full production. Some leaders of the business community think the solution is low wages for workers, which would increase profits.

For example, business leaders say that a subminimum wage for teenagers would help reduce teenage unemployment. But the unemployment problem won't be solved by firing older workers to give jobs to teenagers at a subminimum wage.

Increasing the minimum wage for workers at the lowest end of the wage spectrum helps the economy, and will also help unemployed teenagers. When minimum wage workers have more money to spend in the marketplace, new jobs will open up. That has been the history of the minimum wage.

Today, there are thousands of minimum wage workers who work full-time, yet are also eligible for welfare because they don't earn enough money to support their families. We don't think it is right for the government to indirectly subsidize greedy employers, who don't pay their employees a living wage, by providing welfare for their employees. People should be able to earn enough money on the job to support their families, and to be full-fledged members of society.

We in labor believe that a government that can plan for unemployment should also be able to plan for full employment. For example, lowering interest rates on home mortgages would enable more people to buy their own homes, since monthly payments would be reduced and be more in line with family budgets.

America needs about two and a half million new housing units a year. Building housing means jobs for construction workers, jobs for building supply workers, for lumber mills, home appliances, furniture, and transportation. And jobs mean paychecks, rather than unemployment checks.

Sidewalks and roads are in disrepair, firehouses are outmoded, libraries small and cramped, schools overcrowded — taking care of these problems would provide hundreds of thousands of jobs in the private sector and improve the quality of life for community residents.

What is lacking though, is an overall plan to get the federal government working on a coordinated basis to achieve the goal of full employment. There are bits and pieces of useful programs here and there, but they lack coordination. They lack any sort of a plan.

There are public service jobs, housing programs, mass transit programs, public works, school aid — but they are essentially Bandaids for specific problems and just don't come to grips with the more general problem of mass unemployment.

That is why the AFL-CIO supports the Humphrey-Hawkins Full Employment and Balanced Growth Act, which would require the planning and coordination necessary for the government to develop policies and programs designed to achieve full employment.

No one program will do the whole job. Providing government jobs for those who cannot find work elsewhere is an essential step but cannot be thought of as the total solution. The only solution to unemployment that makes any sense is jobs, good jobs at decent wages.

Full employment is both achievable and practical. We think that a job opportunity for every American able and willing to work is an essential human right.

Similarly, the human and legal right of workers to form their own unions free from employer interference and coercion must be strengthened and protected.

Until 1935, when Congress passed the National Labor Relations Act, workers had no legal right to organize and bargain collectively. With passage of the Wagner Act, however, the government of the United States gave workers that legal right.

Continued

GEORGE MEANY

Today, the labor movement — once hated, despised and opposed by employers in their often violent and desperate struggle to maintain total control over the lives of workers — has become fully integrated into American society. The practice of collective bargaining has brought order, justice and dignity to thousands of workplaces and provided millions of workers and their families with an improved standard of living.

But there are many employers who still refuse to recognize their employees' rights, and who repeatedly and willfully violate the laws protecting those rights.

The most common illegal practice is for companies to fire those workers who want to form a union. This is against the law. But the law is old and slow and riddled with loopholes, weaknesses and opportunities for delay.

When a law — any law — is violated with virtual impunity and official orders to obey the law ignored, all Americans are affected. Every student who has ever studied civics knows that the United States is a government of laws, not men.

But certain employers have placed themselves above the law.

The nation's basic labor law has been amended twice in the past 42 years to meet employer objections and to strengthen penalties for union violations. The result is that the law governing labor-management affairs, instead of being neutral, now leans heavily toward the employer's side.

Most Americans, we believe, support the view that the nation's labor law should not take sides, but rather should provide a reasonable framework and code of conduct under which labor and management can resolve their differences.

President Carter has proposed such a law. He proposes to eliminate the lengthy delays of one, two and even more years before National Labor Relations Board decisions are made and enforced. He would stiffen penalties for the most flagrant violations by employers to match the already strong penalties for union violations.

President Carter's proposals would also make it possible for the workers to have prompt and fair secret ballot elections in which the workers alone decide for themselves whether they want a union. Employers who illegally discriminate against workers on the basis of their pro-union views by firing them would face penalties similar to those for discrimination against a worker on the basis of color, sex, age or religion.

The President's proposals would not change the rules of the game. Companies and unions would still have to live up to the same requirements. What the President proposes, however, is to give the referee — the National Labor Relations Board — a real mechanism for making certain everyone plays fairly.

If you would like to know more about what President Carter has proposed, just write the AFL-CIO, Washington, D.C. We will be glad to provide you with the facts.

At the present time, the Congress is holding hearings on the President's proposals. It has heard detailed testimony form witnesses about the illegal and immoral tactics some employers have used against workers who want to form a union.

Workers have told congressional committees that their employers said, "If you want a union, then we'll fire you and hire someone who is unemployed." Such a threat is illegal, but employers get away with it every day, year after year, day in and day out. Imagine that — workers threatened with their livelihood and well-being for taking the government at its word when it says workers have the right to form a union and cannot be penalized for exercising that right.

We say employers should not be able to use the misery, poverty and desperation of the unemployed to deny their workers the rights guaranteed them by God, the Constitution and the laws of the United States.

This nation cannot afford a system that offers justice to some, freedom to some, the hope of a better future to some — but not all.

So, on this Labor Day, the American labor movement is not celebrating or resting. We are working — working hard for full employment and for the rights of workers who want to be treated with respect and dignity by their employers.

After all, that is what Labor Day is really all about.

·AUGUSTUS F. HAWKINS
29TH DISTRICT, CALIFORNIA

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SUBCOMMITTEES:
EQUAL OPPORTUNITIES, CHAIRMAN
MANPOWER, COMPENSATION, AND HEALTH AND SAFETY
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PERSONNEL AND POLICE

Congress of the United States
House of Representatives
Washington, D.C. 20515

2350 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: 225-2201

JOHN W. SMITH
ADMINISTRATIVE ASSISTANT

LOS ANGELES OFFICES:
936 WEST MANCHESTER AVENUE
TELEPHONE: 750-0260

HUNTINGTON PARK OFFICE:
2710 ZOE AVENUE
TELEPHONE: 587-0421

CHARLES E. KNOX
SPECIAL ASSISTANT

1977

DEAR FULL EMPLOYMENT SUPPORTER:

We are continuing and intensifying the battle for full employment within the United States Congress. The Full Employment and Balanced Growth Act of 1977 was introduced into the 95th Congress in January of this year and designated H.R. 50 in the House, and S. 50 in the Senate.

With the aid of the labor community, which has long pursued the goal of full employment, we were able to make great strides towards fulfilling that goal in the 94th Congress. Now the debate continues in the 95th Congress where we have already gained the co-sponsorship of 70 Members of the House and 9 Members of the Senate.

The House Education and Labor Committee's Subcommittee on Employment Opportunities has begun hearings on the bill and most recently received the testimony of Secretary of Labor, Ray Marshall who indicated his unequivocal personal support of H.R. 50/ S. 50, although he could not provide the official position of the President or the Administration.

We are again asking your assistance in this great cause by whatever means you have available. Enclosed is a copy of the "Hawkins' Full Employment Bulletin" which outlines the bill and provides keys to action which you may find useful.

Since the President has recently assigned his advisors to study and come up with the Administration's position on H.R. 50/ S. 50 on a crash basis we think it important now to

Continued

let them know how your organization feels about the Full Employment Bill -- H.R. 50/ S. 50.

Please keep us informed of your efforts and contact us for any assistance you might need.

Sincerely,

AUGUSTUS F. HAWKINS
Member of Congress

HUBERT H. HUMPHREY
United States Senator

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REMARKS OF THE HONORABLE JOHN JOSEPH MOAKLEY

AT THE

MASSACHUSETTS STATE LABOR COUNCIL

The Parker House
Boston, Massachusetts
October 4, 1977

I am indeed honored to be here this morning. It is always a privilege to be with the spokesmen of the American Labor Movement.

The subject of Labor Law Reform is one which touches the lives of all of us here in this room today, and, certainly, the lives of most of us in the United States, whether we be in the business community or the labor community.

Perhaps the major pledge made to the American people during last year's presidential campaign by both candidates was to make the federal government more responsive to the American people. Certainly, a good part of President Carter's success in the primaries was derived from his ability to sense a degree of frustration in the American public in their dealings with massive Washington bureaucracies.

It is just this pledge that President Carter is attempting to make good on in dealing with the complex questions arising from the issue of Labor Law Reform. The President has pledged to make federal regulatory agencies more responsive to the people they serve. Government regulation only works well if it is *fair, prompt* and *predictable.* As we all know only too well, this has too often not been the case with the regulatory process that governs collective bargaining and labor management relations. We all know that our current labor laws do guarantee employees the right to choose freely their representatives and to bargain collectively with employers over wages, fringe benefits and working conditions. The crux of this entire issue, however, is that legal rights have limited value if all too often, 2, 3, or 4 years are required to enforce them. It is unfortunate that this has been true in recent years.

The National Labor Relations Board administers our labor laws. In recent years there has been common and growing agreement that those laws should be amended to ensure that the board can function more effectively to protect employees rights. While the great majority of employers have abided by the current labor laws, a few have unfairly abused the procedures and practices under which the board must operate.

As a result, the American Bar Association, many federal courts, organized labor groups, business organizations and the Carter administration as well as the NLRB'S own internal report, have suggested ways to Improve the board's procedures and functioning and have already accomplished some beneficial results. While advocating different amendments, all these groups believe that procedural changes in the administration of the act should be made, in addition to more substantive changes. I am convinced, however, that legislation is needed to administer labor laws properly.

Continued

It's both coincidental and fitting that I am here speaking to you today on this subject. When I arrive in Washington, no more than a few hours from now, the issue of labor law reform will be on the floor of the House of Representatives for debate and a vote. H. R. 8410 is the most critical piece of labor legislation on this year's legislative calendar. I am confident, that with the support of my Democratic colleagues in the House, the Carter administration and the organized support of hundreds of labor groups from around the nation, that H.R. 8410 will pass the house this afternoon and go to the senate for their review.

The primary argument made by organized labor in favor of reforming the national labor relations act is that the current law and the way it is administered is so defective that the statutory right of employees to form a union and collectively bargain is a hollow promise. The critics have found that the major problems in the application of the existing law are *delays* and *inadequate remedies* for those whose rights have been violated.

Unnecessary delays are a most serious problem. In even the simplest of cases, the board takes up to two months to hold an election to determine if the workers want union representation. The existing NLRB is literally crushed under its caseload.

In 1976, 50,000 cases were filed with the board; a doubling of the caseload of 12 years earlier. The enforcement of board decisions is also subject to unnecessary delay: Lengthy proceedings before the board and extended litigation can sometimes delay final action for years.

I am convinced that the problem of delay has been compounded and multiplied by the actual weakness of the board's remedies. The existing law provides remedies so inadequate that some employers are encouraged to break the law. It is incumbent on those of us in the Congress to reform the NLRB'S legal sanction: especially in terms of forcing the "Rogue" employer to obey the newly beefed up law. There is no reason whatsoever why a company the likes of J.P. Stevens, having been cited for over 15 direct violations of the current law should still be flaunting its no-union operation. Legal and legislative recourse is demanded here to ensure that some employers do not decide to pursue a course of action filled with delaying tactics as alternative to initial compliance to the NLRB's ruling. This is precisely what H.R. 8410 proposes to accomplish.

Action is needed now to reduce the problems of delay and to cure a number of closely related weaknesses in our existing labor laws. I am in complete agreement with the three overall reform proposals that President Carter sent to Congress on July 18th — legislation designed:

— to make the NLRB procedures fairer, prompter and more predictable

— to protect the rights of labor and management by strengthening NLRB sanctions against those who do break the law and

— to preserve the integrity of the federal contracting process by withholding federal contracts from firms that willfully violate orders from the NLRB and the courts. Among the more specific legislation I support in this area are measures designed to:

— to hold an election for union representation within a fixed, brief period of time after a request for an election is filed with the board

— to instruct the NLRB to establish clear rules defining appropriate collective bargaining units

— to expand the NLRB from the current 5 to 7 members

— to order that workers be compensated on a percentage basis for back-pay lost during union negotiations and

— to permit the board to order that federal contracts be withheld from firms found to be in violation of board orders for a period of three years.

After the profound contributions by the American labor force to the quality of life we all now enjoy, the least we in Congress can do to ensure the existence of fair labor laws is to move promptly to enact a stricter, fairer and prompter set of labor regulations.

This is what H.R. 8410 embodies. My vote this afternoon is a vote cast for America's backbone; its working men and women. This is an essential part of the commitment we made to the American labor force 42 years ago with the enactment of the Wagner Act — that working men and women who wish to bargain collectively with their employers in a way fair to both, have a reasonable and prompt chance to do so. Only through this kind of Legislative action, will the collective bargaining system, which has served America so well in the past half century, be allowed to continue. I promise to push as hard as I can to secure the needed reforms in this area in Congress.

HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN HAWKINS' FULL EMPLOYMENT BULLETIN

Is There A Job In Your Future?

We certainly hope so, but with the unpredictable nature of the American economy there is absolutely no guarantee that Americans who are both willing and able to work will be able to find useful and rewarding jobs throughout the duration of this decade and for many decades to come.

Working has always been an important element in our society. Americans have long viewed employment as the means to the good life; as the way to realize their version of the American dream. But for many Americans the American dream is a dream deferred; the promise of the good life an empty promise.

There are currently more than 10 million unemployed American workers, and there is no end in sight to their problem. The unemployment rate and the nation's economy in general continues to ride the cyclical roller coaster, vascillating between setbacks and improvements. Our treadmill economy seems to take a step forward only to fall three steps behind in due course. The latest trends in unemployment, with only slight ups and downs, has been a steady rise adding more people to the already massive rolls of the jobless.

Based on recent economic management policies the economic predictions of many economists indicate a continuation of the gloomy unemployment situation throughout this decade and for some members of our nation many decades to come.

Unemployment has been a persistent problem for those citizens who are women, teenagers, black or members of other minority groups. Unemployment affects a disproportionate number of these workers and forces greater numbers of them into the jobless category. Even during times of relative prosperity and expansion the rate of unemployment for women, teenagers and minorities has remained unacceptably high, often as much as two or three times as high as the rate of the general working population. For these people a return to economic normalcy is a continuation of economic deprivation.

© Herblock In The Washington Post

'It's just that they don't consider us a practical purpose'

Federal Commitment to Full Employment

Efforts are currently being undertaken within the U.S. Congress to end the intolerable unemployment situation once and for all. H.R. 50, the *Full Employment and Balanced Growth Act of 1977*, is the first piece of legislation since the Employment Act of 1946 to be directed towards fulfilling the nation's employment capabilities. H.R. 50 not only seeks to maximize employment but also the nation's industrial production, consumer purchasing power, and the capacity and willingness to meet the great priorities of our economic and social needs.

The *Full Employment and Balanced Growth Act* sets out to establish as the nation's number one economic policy the right of every adult American, able, willing, and seeking work to opportunities to useful employment at fair wages.

What Will H.R. 50 Actually Do?

- The bill establishes long range goals for the reduction of *both unemployment and inflation.* The long term goal for the unemployment rate is the elimination of involuntary unemployment; the interim goal is the reduction for the adult population age twenty and over to three percent or less and four percent for the overall working population within four years from the date of enactment of the bill; while the inflation goal initially halts inflation by requiring that the rate not exceed the level existing at the date of enactment.
- In addition to the ceiling imposed on the inflation rate by requiring that it remain at or below the rate existing at the time of enactment of H.R. 50 further reductions in inflation would be sought to bring the level to the point of reasonable price stability. This will have the effect of establishing an increasingly more stringent target goal for the rate of inflation, thus increasing the purchasing power of the American wageearner.
- The bill provides for closing the gap between the employment rates of the general populace and the rates of women, blacks and other minorities: those groups who face the problem of chronic unemployment.
- Solutions to the special employment problems of youths are sought by requiring comprehensive and coordinated youth employment programs and that the ratio of youth unemployment be narrowed closer to that of the general working population.
- The majority of the expanded employment opportunities encouraged by H.R. 50 are to come from the private sector where the increases in employment can be reflected in increases in production and buying power nearer to the full capacity of our proven capabilities. The increase in industrial and management private sector employment is expected to be about three times as great as increases in public sector state and local jobs which are to be designed to serve real needs.
- Economic stability and balanced growth are encouraged as a result of establishing an economic environment of full employment that motivates both production and consumption at or near capacity levels. This will aid the business community by insuring a sufficient number of buyers in the market place to sustain a profitable level of business without fear of recession.
- Provisions are made for aid to both urban and rural areas that suffer from the chronic under-utilization of labor and capital resources.

FITCHBURG ENGINEERING CORPORATION

FITCHBURG, MASSACHUSETTS 01420

CLEGHORN STREET
P. O. BOX 443

AREA CODE 617
PHONE 343-7416

Specific Items in the Labor Law Reform Bill

On February 22, 1977, the AFL-CIO Executive Council called for legislation to "correct the current imbalance and restore equity to labor-management relations." This legislation is now ready for congressional action.

These proposals would be a major step toward guaranteeing workers their rights to organize themselves and bargain collectively with their employer. In other words, these amendments seek to fulfill the 42-year-old statement of national labor policy contained in the Act:

"It is . . . the policy of the United States . . . (to encourage) the practice and procedure of collective bargaining . . . by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

Following is an explanation of the specific items contained in the Labor Law Reform Bill.

I. ELECTION AND CERTIFICATION PROCEDURES—A FAIR CHANCE FOR WORKERS TO ORGANIZE

The AFL-CIO Executive Council stated:

"The present law contains a complex of regulations all of which delay the final decision of cases concerning whether workers have chosen a union to represent them and whether their employer is required by law to bargain.

"Workers who wish to organize must have a fair chance to do so. To assure that fair chance, prompt procedures for determining representation questions and more effective remedies for discriminatory discharges and similar violations committed during an organizing campaign or initial contract negotiations are essential first steps."

To remove the obstacles to exercise of the right to organize, the following amendments to the Act have been proposed:

(A) Expedited Elections

(1) Background: The National Labor Relations Board conducts secret ballot elections for workers who seek certification of a union to represent them in collective bargaining with their employer. An employee, union or employer has the right to petition the Board for an election under Section 9(c) of the National Labor Relations Act.

Congress intended the representation election process to prevent the industrial strife caused by strikes for union recognition. Therefore, it is imperative that the election process be as expeditious as possible. For employees who want to begin the collective bargaining process the current delays in the Board's election and certification procedures are far too long.

A median time of 57 days from the filing of the petition until the actual election is currently required for even the simplest uncontested elections. For contested elections, where the issues are resolved by an NLRB regional director, the median time is 75 days. If the issues are referred to the Board, it takes a median of 275 days.

(2) Proposed change: Four different time limits for holding an election would be established, depending on the complexity of the contested issues involved. (Note: These issues typically concern the appropriate bargaining unit, voter eligibility, and the time and place of the election. In FY 76 the parties in 22 percent of election cases could not agree on one or more of these issues.)

(a) A longer period—75 days—would be established for these elections which present issues of "exceptional novelty or complexity";

(b) All other elections would be held in 45 days;

(c) A shorter period would apply when a majority of a currently unrepresented group of employees in a plainly appropriate unit have designated the petitioning union as their representative. In most cases the election would take place in 15 days.

(d) This shorter period would be extended to 21 days for classes of cases in which the election is held at a substantial distance from the Board's regional office or if the election involves a large bargaining unit. The Board would by rule state the precise cut-off points.

(B) Unit Determination by Rulemaking

(1) Background: The Board is already empowered by Section 6 of the NLRA to promulgate rules "as may be necessary to carry out the provisions of the Act." However, the Board has generally declined to exercise these rulemaking powers, resorting almost entirely to case-by-case determinations—a far slower process which has been criticized by the Supeme Court and many others.

(2) Proposed change: The Board would be required to promulgate rules setting out plainly appropriate units for collective bargaining. These rules would eliminate many contested issues concerning an appropriate unit and would be the basis for determining the appropriateness of the unit in all elections governed by the 15 and 21-day limits and in many elections governed by the 45-day limit.

This requirement would: (1) expedite the election proc-

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ess by making lengthy unit hearings unnecessary; and (2) provide greater predictability in certifications.

Under present law, an election rule issued by the Board can be reviewed only in an unfair labor practice proceedings (typically after an employer refusal to bargain). Since all rules adopted by the Board under the proposed amendments would only be issued after a formal rulemaking procedure in which all affected persons have a right to be heard, this prohibition against piecemeal appeals is continued. Moreover, where a rule is challenged, it could only be set aside if it were found to be unconstitutional, arbitrary and capricious, contrary to a specific prohibition of the Act, or in violation of the requirements of the Administrative Procedure Act.

Once an election is held, the proposed amendments provide that a party could file post-election "objections" to the Board within 5 days alleging a violation of a Board election rule. "Challenged" ballots would have to be sufficient in number to affect the outcome of the election.

The goal of these changes is to hold elections as promptly as possible while resolving to the extent possible election issues before the election. In this regard, the Board would also be directed to promulgate rules to encourage the parties to agree on the eligibility of voters. Other rules would be developed to govern cases where the Board has not acted on pre-election appeals prior to the election date.

(C) Equal Assured Opportunity For Employees to Hear the Arguments For and Against Collective Bargaining

(1) Background: A substantial imbalance now exists between the ability of employers and unions to reach *all* employees. As the law now stands, an employer is assured of being able to communicate his views to all employees. Employers can *require* employees to attend meetings on the premises. The union does not have this right and must use other, admittedly less effective means of getting its message across. Currently, a union is limited to:

(a) visiting homes of employees whose addresses they can find and who are willing to talk with them;

(b) telephoning employees whose numbers they can find and who are willing to talk with them;

(c) Distributing literature to employees who are frequently afraid to be seen by their employer taking a leaflet or who are willing to stop their cars on the street instead of driving into the company parking lot where union organizers generally have no rights to distribute.

If the employees are to make an educated choice in an election, there must be a more reasonable balance between the employer's right and the union's right to communicate.

(2) Proposed change: The proposed amendments provide no single fixed rule for assuring employees an equal opportunity to hear unions. Rather, because of the complexity of the interests involved, the NLRB is directed to develop, after a full hearing, reasonable and appropriate rules giving the employees a fair chance to hear both sides before making their choice in a secret-ballot election.

(D) Preliminary Injunctions

(1) Background: One of the most effective remedies provided in the NLRA is the power to enjoin statutory violations or unlawful acts. At present, the NLRB can seek injunctions, prior to the adjudication of unfair labor practice complaints, in two types of cases:

(a) Under Section 10(1) of the Act, the Board must seek a preliminary injunction, in conjunction with issuing a complaint, in certain instances where a union is charged with forcing an employer or self-employed person to join a union or to bargain with an unrecognized union, or with conducting a secondary boycott. Injunctions must also be sought against "hot cargo" agreements permitting employees not to handle the goods of other employers. There is no requirement for the issuances of a mandatory injunction against employer unfair labor practices.

(b) The Board also has discretionary power under 10 (j) to seek preliminary injunctions, after a complaint has been issued, against any type of conduct forbidden by the LMRA.

There is an imbalance in the present administration of the law with respect to the issuance of these preliminary injunctions. Historically, Section 10(1) has been used on a continuing and regular basis to obtain injunctions against unions. On the other hand, the Board has applied for relatively few injunctions, against either employers or unions, under 10(j). In FY 1976, the Board filed 143 petitions for mandatory 10(1) injunctions against unions and only 14 petitions against employers for discretionary 10(j) injunctions.

(2) Proposed change: The Board would be required to seek preliminary injunctions where an employee is unlawfully discharged during a union's organizing efforts or prior to negotiation of a first contract. This amendment would offer protection to employees during the critical organizing period when they are most vulnerable to employer reprisals.

The original intent of 10(1) injunctions was to rapidly enjoin unfair labor practices which have a particularly deleterious effect on business operations. This amendment recognizes that certain employer unfair labor practices can have an equally detrimental effect on workers and unions.

II. STREAMLINING PROCEDURES AND REDUCING DELAYS

The Executive Council said:

"Amendments to the Act have more than doubled the number of NLRB cases. A five-member Board is insufficient to handle this workload. The problem is compounded by the fact that Congress has not granted the Board authority to streamline its procedures for handling appeals in uncomplicated cases.

"The time required for a final decision in unfair labor practice cases must be reduced. It is axiomatic that justice delayed is justice denied. In particular, the Board cannot streamline its procedures, and carefully consider the cases before it, unless its membership is increased."

To streamline the Board's procedures and reduce de-

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lays, the following amendments have been recommended:

(A) Increasing the Size of the NLRB

(1) Background: In FY 1976, the present 5-member Board had a median number of 447 cases before it at any one time. In recent months, this figure has risen by 25 percent and it is clear that increased productivity cannot by itself meet the increase in caseload.

In 1960 the Board had 21,000 cases with 7,000 cases pending at the year's end. In 1970 it had 33,000 cases and 11,000 pending at the year's end. And in 1976 it had 49,000 cases and 18,000 cases pending at the end of the year.

A charge filed with the Board in 1975 took a median time of 315 days for disposition of an unfair labor practice complaint. In 1976, it took 358 days, and in the third quarter of 1977 the median delay was up to 374 days.

(2) Proposed change: The NLRB would be increased to seven, instead of the present five, members. Four members, instead of the present three, would constitute a quorum.

The Board is now authorized to delegate its authority to panels of three or more Board members. Currently, most NLRB decisions are made by these panels. Increasing the Board to seven members would permit more panels to operate at any one time.

The effect of this change would be to increase the caseload that can be handled with due regard of the rights of all the parties to the case. (It should be noted that the Labor Law Section of the American Bar Association has recommended that the Board be increased to nine members.)

(B) Board Authority to Affirm Decisions of Administrative Law Judges

(1) Background: It now takes the Board a median time of 120 days to issue a final decision after its receipt of the decision of an Administrative Law Judge, despite the fact that a good many of these cases are extremely simple.

The Board now delegates its authority in most cases to panels of three members, who must conform to uniform, generous time schedules regardless of how simple the case. Before a case is decided by a Board panel, a draft opinion is circulated to the two nonparticipating Board members for clearance and possible assignment to the full Board.

(2) Proposed change: The proposed amendments would give the Board authority to establish a procedure whereby a quorum (two members) of a designated Board panel could summarily affirm ALJ decisions in certain types of unfair labor practice cases.

Thus, the Board could adopt the same kinds of summary procedures now being used by federal courts of appeals. It would determine the types of cases which would be subject to summary procedures and the particular conditions applicable to these cases. It could, for example, adopt an expedited briefing schedule.

If the Board desires, opinions could be circulated in advance to nonparticipating members to assure that particularly involved or unusual cases are brought before the full Board.

(C) Expedited Enforcement of Uncontested Board Orders

(1) Background: Unlike an order issued by a federal district court, a Board order is not self-executing. It merely prescribes what action must be taken to remedy the unlawful conduct. The Board cannot enforce the order, but must petition the court of appeals to affirm an order and then enforce it through the court's contempt sanctions. In addition, a person aggrieved by a Board order may file a petition asking the court to review that order. Because there are no fixed time limits for filing these petitions, long delays may occur before enforcement or review of a Board order is sought.

(2) Proposed change: The Board would be able to have its orders made final unless a party files a petition to review the order within 30 days. If no review petition is filed, the clerk of the court of appeals would, upon the Board's request, enter a final decree enforcing the Board's order. Thus, the difference made by the amendment is to require a party to affirmatively come forward if it does not intend to comply with the Board's order, and to do so within a 30-day period. Similar procedures are provided in the Federal Trade Commission and Occupational Safety and Health Act.

As is presently the case, once a petition for review was filed, the Board's order would not go into effect unless the Board could convince the court that temporary relief is required pending the court's review.

III. EFFECTIVE REMEDIES

As the Executive Council pointed out:

"Priority treatment and a mandatory preliminary injunction procedure are presently granted where an employer charges a secondary boycott or a jurisdictional dispute. In addition, Congress has granted employers the right to bring a variety of damage suits against unions in federal court. No comparable remedies for employer violations—even flagrant violations during organizing campaigns—are available. This disparity must be corrected.

"In particular, the government should not subsidize law breaking. Government contracts should not be awarded to firms which violate the employees rights declared in the NLRA, just as contracts are not awarded to firms violating other federally-guaranteed employee rights."

In addition to the preliminary injunction procedures mentioned earlier, the following amendments are being offered to make the NLRA's remedies more effective in determining violations.

(A) Debarment from Federal Contracts

(1) Background: Many federal labor statutes have a provision barring companies found to be in violation of the statute from participating in federal contracts for a specified period of time. (Examples: Davis-Bacon Act, Service Contract Act, Walsh-Healey Act, and executive orders and statutes prohibiting discrimination on the basis of race, sex, religion, national origin, handicap or veteran

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status). Such provisions are necessary because U.S. procurement laws require contracts to be awarded to the lowest responsible bidder, and it is imperative that a firm's low price not be achieved at the expense of fair labor standards.

Because the NLRA does not have any comparable debarment provision, the federal government continues to award contracts to repeated, willful violators. Fo example, J.P. Stevens, the nation's second largest textile manufacturer, receives numerous federal contracts despite the fact it has been found in substantial violation of the NLRA in 15 separate cases since 1965, three of which have gone to the United States Supreme Court.

(2) Proposed change: Any person found by the NLRB to have willfully violated a Board order, which was finally enforced by a court decree, involving the coercion of employees in the exercise of their rights under the Act or discrimination against employees with respect to union membership, would be barred from participation in federal contracts for 3 years. The exceptions are: if the Secretary of Labor determines that because of unusual circumstances the national interest requires otherwise; if the federal procurement agency involved finds, after a hearing, that the firm is the sole source for such goods or services; or if a court rules the violation was not willful.

Restricting contracts with companies which willfully violate national labor law would be consistent with the policies embodied in other federal laws. Moreover, just as federal funds ought not be spent to support other forms of discrimination, they ought not be spent to support violations of the rights of workers to organize a union.

(B) Double Backpay

(1) Background: The discharge of employees for union activity is prohibited under the law. The Board is authorized to reinstate illegally discharged employees and award backpay. However, the proceedings to obtain such relief are often lengthy, involving most particularly issues concerning the extent to which the employee has "mitigated" the wage loss by obtaining other employment. Thus, the deterrent effect of the presently available remedies is minimal.

Moreover, other damages over and above the employee's actual wage loss are not compensated. Employees who abruptly lose their jobs may be unable to pay bills, may lose insurance or property, or have their credit impaired. Other statutes, recognizing the harm which results from a loss in employment or wages, provide for "liquidated damages" or "double backpay" which can be obtained without any proof of additional loss. One example is the Fair Labor Standards Act.

(2) Proposed change: Where the illegal discharge occurs during the course of a union's organizational effort or before the first contract is obtained, the affected workers would receive double backpay computed on the basis of the employee's wage rate in effect at the time of discharge. This is when employees are most vulnerable to illegal discharges and when the processing of their claims is likely to be lengthy because there may be a number of affected employees and no internal grievance procedures will be available. Double backpay is already recognized in other statutes as part of remedial relief, and this sanction, although not a penalty, would serve to discourage violations.

This proposal would eliminate any requirement that the Board determine and deduct interim earnings from the double backpay award. This is a critical feature of the amendment. There is no concept of due process which requires the law to credit an illegally-discharged employee's interim earnings against an employer's wage obligation. Requiring that such a credit be given fails to deter violations and results in lengthy supplemental trial proceedings during which testimony is received as to how much the employees earned or should have earned. For example, in the Darlington Manufacturing Co. case, it has been 10 years since the Supreme Court enforced the Board's order to offer jobs to the terminated employees and to award backpay. But the participants are still adjudicating the amount of backpay due. Meanwhile, many of the employees have moved away or died since the Board's original decision in 1962.

By providing double backpay without mitigation for illegal discharges which occur during a union's organizing efforts or negotiation of a first contract, employees are at least partially compensated for the full damages suffered for this violation of their rights, and those employees are assured that this compensation will not be delayed for years as a result of lengthy hearings.

(C) Compensation to Employees for Unlawful Refusals to Bargain

(1) Background: A major imbalance in the law is the absence of any remedial relief to compensate employees when their employer unlawfully refuses to bargain for an initial contract.

An employer can stall bargaining for a couple of years but under present law, the Board has limited itself to cease and desist orders and orders to bargain. The Board itself and the courts have recognized that such orders are an inadequate remedy for employees who have been improperly denied the benefits of collective bargaining while the refusal to bargain charge was litigated. For, an employer can, without any cost to himself, refuse to bargain solely to delay reaching an agreement with the union. The employees, meanwhile, lose any benefits that they would have obtained under a contract.

(2) Proposed change: Where there is an unlawful refusal to bargain for an initial contract (but not for all subsequent contracts), the Board would be authorized to order compensation to the employees for the delay. The amount would be equal to the difference between the wages and fringes received by the employees during the period of the delay and the wages and fringes received at the time the unfair labor practice began, multiplied by the percentage change in wages and other benefits stated in the BLS Average Wage and Benefit Settlements, Quarterly Report of Major Collective Bargaining Settlements for the quarter in which the delay began.

Continued

This proposal provides for readily ascertainable relief. In addition, it removes the issue of damages as a factor which might affect the subsequent collective bargaining process. The use of the BLS index is also preferable to a civil penalty—which establishes a fixed amount and is often used in other remedial legislation—since it approximates the actual damages suffered and, unlike a civil penalty, results in money being paid directly to the injured employee.

IV. A DEFINITIONAL CHANGE AFFECTING THE NLRA'S COVERAGE

The NLRA's beneficial protections should be available to all American workers. Unfortunately the trend since 1935 has been to narrow the categories of employees covered by the Act. The time has come to reverse that trend. The AFL-CIO has constantly made it clear that the proper first step is to reinstitute those protections for the employees who formerly enjoyed them. The essential long-term goal is to extend the right to organize to those who have never had federal protection.

Greater Protection for Guards

(1) Background: Section 9(b) (3), which was added by the Taft-Hartley Act, prevents the Board from including in a unit of other employees "any individual employed as a guard to enforce against employees and other persons, rules to protect property of the employers or to protect the safety of persons on the employer's premises." In addition, a union may not be certified as the representative of guards if it "admits to membership or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards."

The intent of Congress in enacting this section was to insure that during strikes or labor unrest an employer would have available loyal plant-protection employees who would enforce rules for the protection of both persons and property.

(2) Proposed change: The proposal would: (1) allow a guard union to affiliate with an international union containing nonguard employees, and (2) allow a local union to represent guards as long as the nonguard employees employed by the same employer at the same location as the guard employees are not members of that local or the international with which the local is affiliated. The proposal thus retains the current restriction against including within a single unit both guards and nonguards.

This change would make it easier for guards employed by guard companies or by industrial companies to exercise their statutory right to organize for collective bargaining purposes and would remove them from second-class status. Guards are no different from the many other workers who are in jobs that are crucial to the employer's operations but who enjoy the full protection of the Act. The free choice of union members is not inconsistent with the exercise of their duties to their employer.

It should be noted that the 1975 amendments to the Executive Order governing labor relations in the federal sector repealed the special provisions regarding guards, which were substantially similar to the special provisions presently in the NLRA.

CONCLUSION

The target of these proposals are those employers who consider themselves above the law. If they are permitted to continue to ignore and violate the labor law at will, then no law is safe—environmental controls, job safety and health, consumer protection, minimum wages. Once the pattern of corporate lawbreaking is established and sanctioned by legislative inaction, the legal underpinning of this society is endangered.

We do not seek a new national labor law. The present law can be made to work if the most glaring procedural and remedial deficiences are corrected—and enforcement made swift, as well as just.

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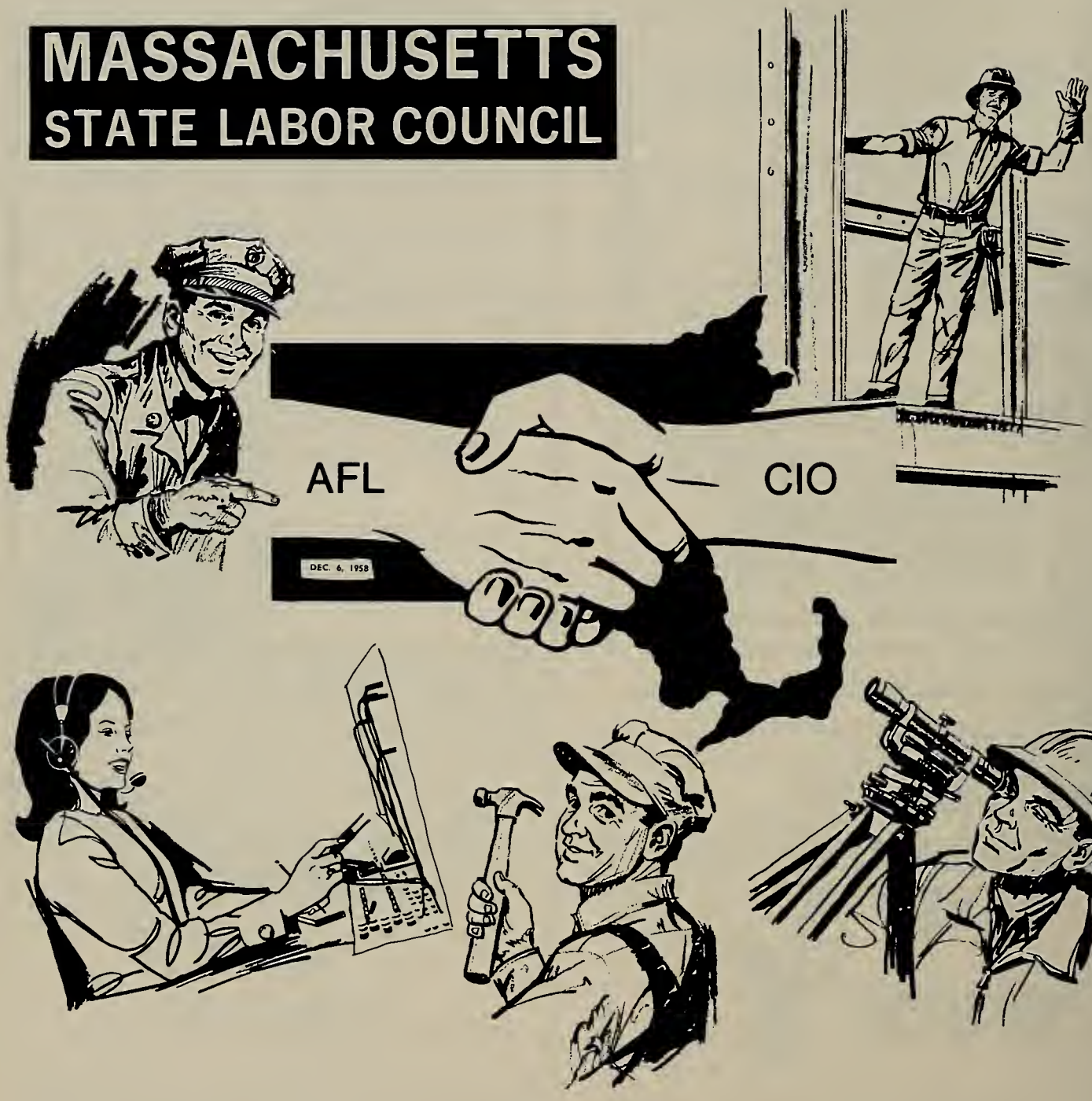

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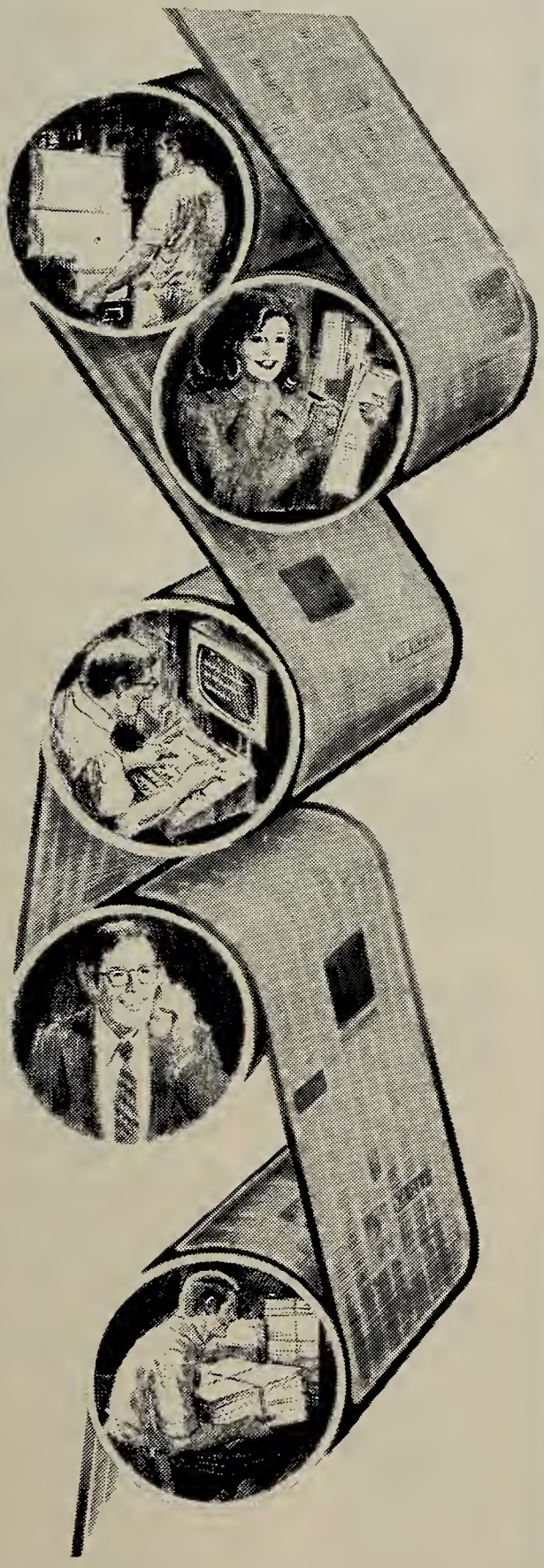

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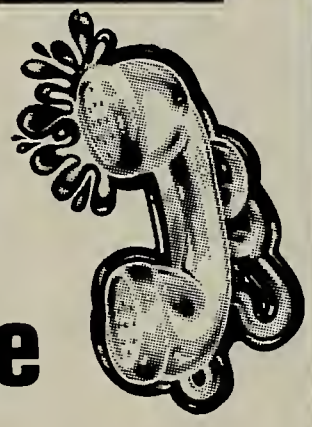

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15 Washington St.
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Lawrence, MA. 686-6548

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356 Andover St.
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2229 Main St.
Concord, MA.
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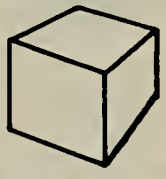

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O'DONNELL TRANSPORTATION
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Framingham, MA.
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UNI-GRAPHIC, INC.
Saugus, Ma. 233-5200

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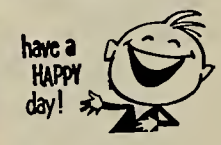
WHITE ELECTRIC MOTORS
Lowell, MA. 458-6336

C.W. WHITTIER & BROTHERS



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WINFIELD WOODWORKING CO.
Holliston, MA. 429-4320

WINN DEVELOPMENT CO.
1 Beacon St.
Boston, MA. 742-4500

WINTHROP MANAGEMENT CORP.
Boston, MA. 426-5326

JIM WITT PONTIAC CORP.
Lowell, MA. 457-7671

HAYDEN WOOD INSURANCE
Framingham, MA.
873-7466

WOODIS SUPPLY CORP.
Worcester, MA.
791-3121

WOODSTOCK SERVICE CORP.
Boston, MA. 423-7440

WORCESTER INDUSTRIAL INSULATION CO.
42 Granite St.
Worcester, MA.
798-8479

WORKWARE UNIFORM SALES
Lawrence, MA. 682-3038

WRIGHT MACHINE CO.

SERVICE Prompt, Courteous, EFFICIENT

Worcester, MA.
753-8158

YORK OLDSMOBILE

YORK OLDSMOBILE, INC

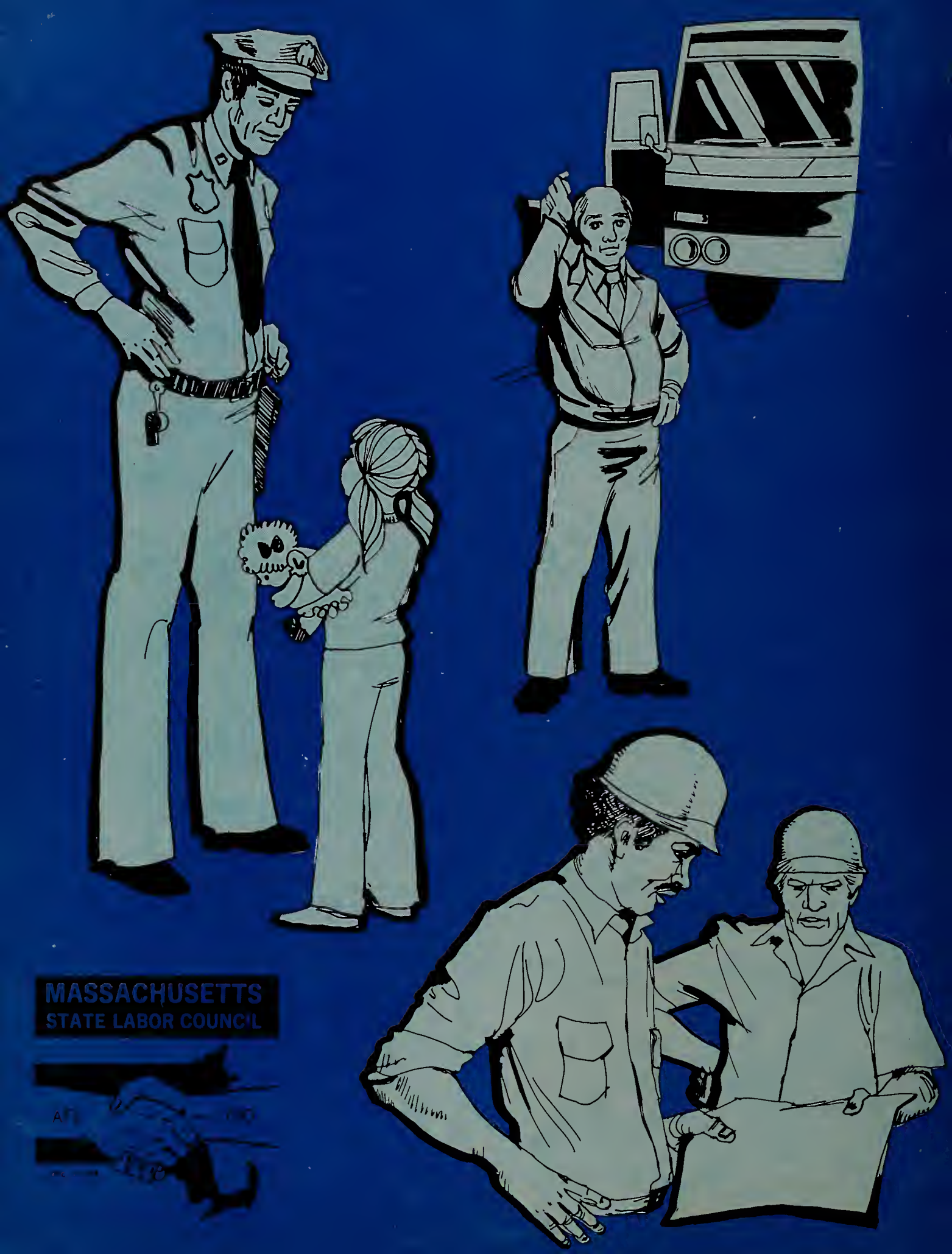
440 Beach St.
Revere, MA.
284-6800

Z

ZELDA'S RESTAURANT
240a Newbury St.
Boston, MA. 247-8516

ZITO'S RESTAURANT & LOUNGE
60 Devonshire St.
Boston, MA. 227-6736

AFL CIO



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STATE LABOR COUNCIL